

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IRVING H. PICARD, :
 :
 Plaintiff :
 : 12-cv-2278 (JSR)
 -v- : 12-cv-2279 (JSR)
 :
 MICHAEL MOST and MARJORIE MOST, : ORDER
 :
 Defendants. :
-----X
In re: :
 :
 MADOFF SECURITIES :
-----X
JED S. RAKOFF, U.S.D.J. : 7/31/14

Defendants in these two civil cases moved to withdraw the reference to the Bankruptcy Court on a number of issues, four of which have been addressed on a consolidated basis. The remaining issue is whether SIPA § 78fff-2(c)(3) authorizes the SIPA trustee to employ the avoidance powers of the Bankruptcy Code to avoid only transfers and not obligations. See Letter of Paula Warmuth, Esq., dated July 16, 2014 (docketed herewith). On further consideration, the Court declines to exercise its discretion to grant a permissive withdrawal of the reference on this issue, with full confidence that the Bankruptcy Court can ably apply to this issue this Court's many decisions on the consolidated withdrawals concerning the interplay of SIPA and the Bankruptcy Code, as well as that Court's expertise on the Code's distinctions between transfers and obligations, in

resolving these adversary proceedings. Accordingly, these adversary proceedings are hereby returned to the Bankruptcy Court. The Clerk of Court is directed to close item 1 on the docket of each of these cases and close the cases.

SO ORDERED.



JEB S. RAKOFF, U.S.D.J.

Dated: New York, New York
July 30, 2014

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July 16, 2014

Chambers of the Hon. Jed S. Rakoff
United States District Judge
500 Pearl Street
Suite 1340
New York, NY 10007

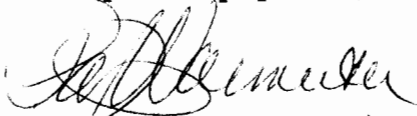
RE: Securities Investor v. Bernard L. Madoff
12-mc-115 (JSR)
Picard - Michael Most
Civil Action No. 12-cv-02279
Picard - Marjorie Most
Civil Action No. 12-cv-02278

Dear Judge Rakoff:

I am the attorney for the defendants, Michael Most and Marjorie Most. I am writing to you pursuant to your order dated July 9, 2014 regarding individual issues which have not been resolved by the Court's rulings on the consolidated issues. Michael and Marjorie Most moved to withdraw the reference on five issues. Four of the issues have been resolved by the Court. The remaining issue is:

F. Mandatory Withdrawal Should be Granted
on Issue of Whether SIPA § 78fff-2(c)(3)
Only Authorizes SIPA Trustee to Employ
the Avoidance Powers of the Bankruptcy Code
to Avoid Transfers - Not Obligations

Very truly yours,


PAULA J. WARMUTH/swii
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